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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,462	03/11/2004	Brian R. Samuels	29214/40015	6413

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EXAMINER	
PATTERSON, MARC A	
ART UNIT	PAPER NUMBER
1772	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/798,462	SAMUELS, BRIAN R.	
	Examiner	Art Unit	
	Marc A. Patterson	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6,7,9,12-17 and 42-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6,7,9,12-17 and 42-50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

NEW REJECTIONS

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 50 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The depth of 5 mm is not disclosed in the specification. For purposes of examination, the phrase '5 mm' will be interpreted to mean 5 microns.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term '16%' is indefinite as its meaning is unclear. For purposes of examination, the phrase will be interpreted to mean 16% by weight.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 – 3, 7, 9, 12 – 15, 17, 42 – 44 and 46 – 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Beckwith et al (WO 97/36798).

With regard to Claims 1 – 3, Beckwith et al disclose a film having a liquid absorbed therein (a solution of a modifier, therefore a liquid, is sorbed into a film; page 15, lines 2 – 12), the surface of the film having a surface energy, therefore a dyne level, of at least 50 dynes (page 13, line 4); the liquid is absorbed into a layer comprising polyamide which is a ether / amide copolymer (page 10, lines 27 – 30), therefore a monolayer of nylon; the liquid is applied to the surface of the film (the film is immersed in a bath of modifier; page 14, lines 22 – 25) and prior to the application of the liquid the surface has been surface activated (corona treatment, therefore corona discharge; page 13, lines 16 – 21). However, the claimed aspects of the film being surface activated prior to the application, and of the liquid application, and of the amount of liquid being able to be absorbed by the film being higher than before the surface treatment, are given little patentable weight as the limitations are directed to process limitations.

With regard to Claim 7, the film disclosed by Beckwith et al is a food packaging film having a food contact surface (food contact layer used for cook – in; page 9, lines 1 – 7).

With regard to Claims 9 and 42 – 44, the film disclosed by Beckwith et al also comprises a polyvinylpyrollidone (page 12, line 11) and is crosslinked (page 11, line 17).

With regard to Claim 12, the film disclosed by Beckwith et al is in the form of a tubular casing (page 22, lines 24 – 26).

With regard to Claim 13, the Beckwith et al discloses a film having a water sorption capacity (page 9, lines 30 – 31); the liquid disclosed by Beckwith et al therefore consists essentially of water.

With regard to Claims 14 – 15 and 17, the liquid disclosed by Beckwith et al comprises a composition comprising an additive for transfer to a food product comprising a flavoring agent (liquid smoke; page 15, line 26) the liquid therefore comprises an anti – viral agent as it induces eating, and therefore destruction of the food product and thus prevents the infection of the food product with viruses.

With regard to Claim 46, the film disclosed by Beckwith et al can include any desired amount of polyvinylpyrollidone (page 12, line 5), therefore 16% by weight.

With regard to Claims 47 – 48, Beckwith et al disclose a third outer layer comprising nylon 66 (page 18, line 25).

With regard to Claim 49, Beckwith et al disclose abssorption by segments of the copolymer (page 8, lines 16 – 20); Beckwith et al therefore disclose absorption through the entire thickness of the nylon

With regard to Claim 50, the film disclosed by Beckwith et al has a thickness of 5 micron (page 11, line 24).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 6 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beckwith et al (WO 97/36798).

Beckwith et al disclose nylon film comprising a liquid which has been applied to a surface as stated above. With regard to Claim 6, Beckwith et al fail to disclose a liquid that is applied in amount of between 0.4 to 10 mg/cm^2. However, Beckwith et al disclose a liquid that is applied in amount which provides sorption of a relatively large amount of modifier (page 15, lines 12 – 15). Therefore, one of ordinary skill in the art would have recognized the utility of varying the amount of the liquid applied to obtain the desired amount of liquid absorbed. Therefore, the amount of liquid absorbed would be readily determined by through routine optimization of the amount of the liquid applied by one having ordinary skill in the art depending on the desired use of the end product as taught by Beckwith et al.

It therefore would be obvious for one of ordinary skill in the art to vary the amount of the liquid applied in order to obtain the desired amount of liquid absorbed, since the amount of liquid absorbed would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Beckwith et al.

With regard to Claim 45, Beckwith et al fail to disclose a nylon comprising nylon 6. However, Beckwith discloses a nylon, as stated above, and teaches the use of nylon 6 as a nylon

for use in the film (page 18, line 20) and Beckwith teaches blending of nylon with the film (page 12, lines 5 – 6). It would therefore have been obvious for one of ordinary skill in the art to have provided for nylon 6 as the nylon of Beckwith et al as Beckwith et al teaches the use of nylon 6 for use in the film.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beckwith et al (WO 97/36798) in view of Luthra et al (European Patent No. 0986957).

Beckwith et al disclose film for a food casing comprising a modifier, therefore an additive, as stated above. Beckwith et al fail to disclose an additive that comprises a Maillard reagent.

Luthra et al teach a film (paragraph 0001) having an additive that comprises a Maillard reagent (sugar; paragraph 0042) for a food casing (packaging for meat products; paragraph 0002) for the purpose of obtaining a food casing that provides transfer of flavor from the film (paragraph 0001). One of ordinary skill in the art would therefore have recognized the advantage of providing for the additive of Luthra et al in Beckwith et al, which comprises film for a food casing, depending on the desired transfer of flavor of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for an additive that comprises a Maillard reagent in Beckwith et al in order to obtain transfer of flavor from the film as taught by Luthra et al.

ANSWERS TO APPLICANT'S ARGUMENTS

10. Applicant's arguments regarding the rejections of the previous Action have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 8 of the remarks dated January 9, 2007, that Beckwith et al disclose corona treatment or the addition of nylon as an alternative, but not both; therefore, Applicant argues, Beckwith et al do not disclose corona treatment of nylon.

However, as stated above, the Beckwith et al disclose an ether / amide copolymer; Beckwith et al therefore disclose a nylon, because it is a nylon copolymer, and Beckwith et al also disclose corona treatment of the nylon.

Applicant also argues, on page 9, that the limitations of corona treatment and liquid application are directed to features of the nylon film and should therefore be given patentable weight.

However, it is not clear what features are being claimed.

Applicant also argues, on page 10, that Beckwith et al do not disclose a dyne level of 50 dynes.

However, Beckwith et al disclose a dyne level of 50 dynes (page 13, line 4).

Applicant also argues, on page 11, that Beckwith et al fail to disclose the use of corona treatment to increase the ability of a hydrophobic nylon to absorb a liquid, or any modification of physical properties of the water – insoluble segment of a nylon.

However, the use of the corona treatment, including modification of physical properties of a water – insoluble segment, is an intended use, and is therefore given little patentable weight.

Applicant also argues, on page 12, that Beckwith et al fail to disclose a crosslinked polyvinylpyrollidone.

However, as stated above, Beckwith et al is crosslinked; the polyvinylpyrollidone disclosed by Beckwith et al is therefore within a crosslinked matrix, and is therefore crosslinked or alternatively includes a crosslinked polyvinylpyrollidone.

Applicant also argues, on page 13, that an ingredient that induces eating does not preclude infection because food products are not consumed immediately after preparation.

However, consuming of the food, at any time, reduces the opportunities for infection relative to eating at a later time; an ingredient that induces eating is therefore anti – viral, even if it does not preclude infection altogether.

Applicant also argues, on page 14, that the film of Beckwith et al, rather than the insoluble segment, sorbs liquid.

However, because the film of Beckwith et al sorbs liquid, all of the segments of Beckwith et al, including the insoluble segment, sorbs liquid.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson 4/2/07
Marc A. Patterson, PhD.
Primary Examiner
Art Unit 1772